

VIA FACSIMILE: 703-872-9302

PATENT
Atty. Dkt. No.: 9D-RG-19957

REMARKS

The Office Action dated July 9, 2003 has been carefully reviewed and the following response has been made in consequence thereof.

Claims 1-26 are now pending in this application. Claims 1-26 are rejected.

In accordance with 37 C.F.R. 1.136(a), a one month extension of time is submitted herewith to extend the due date of the response to the Office Action dated July 9, 2003, for the above-identified patent application from October 9, 2003, through and including November 9, 2003. In accordance with 37 C.F.R. 1.17(a)(3), authorization to charge a deposit account in the amount of \$110.00 to cover this extension of time request also is submitted herewith.

The rejection of Claim 11 under 35 U.S.C. § 112 is respectfully traversed. Claim 11 has been amended. Applicant respectfully submits that Claim 11 meets the requirements of Section 112, second paragraph.

For the reasons set forth above, Applicant respectfully requests that the Section 112 rejection of Claim 11 be withdrawn.

The rejection of Claims 1-12 and 14-16 under 35 U.S.C. § 102(b) as being anticipated by Karapetian, U.S. Patent No. 3,717,083 (hereinafter referred to as "Karapetian") is respectfully traversed.

Karapetian describes a disposable secondary grill (10) with a peripheral frame (11). The frame has a plurality of supporting sidewalls (14) depending downwardly therefrom and extending along at least two edges of a top surface (12). A plurality of openings (16) is formed in the top surface to permit radiant heat from the heat source in the primary grill (not shown) to pass therethrough. The openings are defined by a plurality of bar-like strips (18) having side flanges (20) depending downwardly therefrom and extending lengthwise along the strips. The

VIA FACSIMILE: 703-872-9302

PATENT
Atty. Dkt. No.: 9D-RG-19957

bottoms of the side flanges at the bottoms of a plurality of undulations (22) and at least portions of the bottoms of supporting sidewalls all lie in a common plane (15) such that the secondary grill is supported with respect to the plane. Thus, when the secondary grill is resting on the surface of a primary grill (not shown) the tops of the undulations will be spaced vertically from the reference plane which corresponds to the surface of the permanent grill. Larger foods placed on the secondary grill will rest on the tops of the undulations, and smaller foods may rest at the bottoms of the undulations. In both cases the food will be spaced vertically from the reference plane, i.e., the surface of the primary grill, by either side flanges and sidewalls, which act as legs, or the tops of the undulations, or both. The secondary grill also includes a plurality of bendable tabs (24) extending inwardly from the inward side of top surface in a plurality of positions, as shown in Fig. 1.

Claim 1 recites a cooking grate including "a frame comprising an exterior frame element; at least one interior frame element comprising a cooking utensil supporting surface, said cooking utensil supporting surface elevated from said exterior frame element; at least one recessed surface extending from said cooking utensil supporting surface, a top of said recessed surface separated from a top of said cooking utensil supporting surface, thereby providing a gap for passage of a burner flame; and at least one support finger extending from at least one of said exterior frame element and interior frame element".

Karapetian does not describe or suggest a cooking grate including a frame including an exterior frame element, at least one interior frame element including a cooking utensil supporting surface, the cooking utensil supporting surface elevated from the exterior frame element, at least one recessed surface extending from the cooking utensil supporting surface, a top of the recessed surface separated from a top of the cooking utensil supporting surface, thereby providing a gap for passage of a burner flame, and at least one support finger extending from at least one of the exterior frame element and interior frame element. Moreover, Karapetian does not describe or suggest at least one support finger extending from at least one of the exterior frame element and interior frame element. Rather, Karapetian describes a plurality of openings defined by a

VIA FACSIMILE: 703-872-9302

PATENT
Atty. Dkt. No.: 9D-RG-19957

plurality of bar-like strips. The Examiner's assertion that the interior frame elements (18/20) of Karapetian are support fingers is respectfully traversed because elements 18 and 20 do not have an unattached end and are, therefore, not fingers. For the reasons set forth above, Claim 1 is submitted to be patentable over Karapetian.

Claims 2-5 depend from independent Claim 1. When the recitations of Claims 2-5 are considered in combination with the recitations of Claim 1, Applicant submits that dependent Claims 2-5 likewise are patentable over Karapetian.

Claim 6 recites a grate assembly for a gas cooking appliance, the grate assembly including "at least one exterior frame element; at least one support finger extending from said exterior frame, said support finger comprising a top surface extending above said at least one exterior frame element; at least one interior frame element comprising a top surface extending above said at least one exterior frame element, said top surface of said interior frame element substantially coplanar with said top surface of said support finger; and at least one recessed surface extending from said top surface of said interior frame element, said recessed surface defining a clearance for passage of a burner flame".

Karapetian neither describes nor suggests a grate assembly for a gas cooking appliance, the grate assembly including at least one exterior frame element, at least one support finger extending from the exterior frame, the support finger including a top surface extending above the at least one exterior frame element, at least one interior frame element including a top surface extending above the at least one exterior frame element, the top surface of the interior frame element substantially coplanar with the top surface of the support finger, and at least one recessed surface extending from the top surface of the interior frame element, the recessed surface defining a clearance for passage of a burner flame. Moreover, Karapetian does not describe or suggest at least one support finger extending from at least one of the exterior frame element and interior frame element. Rather, Karapetian describes a plurality of openings defined by a plurality of bar-like strips. The Examiner's assertion that the interior frame elements

VIA FACSIMILE: 703-872-9302

PATENT
Atty. Dkt. No.: 9D-RG-19957

(18/20) of Karapetian are support fingers is respectfully traversed because elements 18 and 20 do not have an unattached end and are, therefore, not fingers. For the reasons set forth above, Claim 6 is submitted to be patentable over Karapetian.

Claims 7-10 depend from independent Claim 6. When the recitations of Claims 7-10 are considered in combination with the recitations of Claim 6, Applicant submits that dependent Claims 7-10 are likewise patentable over Karapetian.

Claim 11 recites a grate assembly for a gas cooktop, the grate assembly includes at least one grate section including a substantially rectangular frame including "at least one exterior frame element comprising a top surface; at least one interior frame element comprising a top surface; and a cross member frame element comprising a top surface, said cross member frame element extending between said exterior frame element and intersecting said interior frame element, said top surfaces of said cross member frame element and said interior frame element substantially coplanar and elevated relative to a top surface of said exterior frame element; and at least one of said cross member frame element and said interior frame element comprising a recessed surface extending from said coplanar surface, said recessed surface comprising a flame clearance gap".

Karapetian neither describes nor suggests a grate assembly for a gas cooktop, the grate assembly includes at least one grate section including a substantially rectangular frame including at least one exterior frame element including a top surface, at least one interior frame element including a top surface, and a cross member frame element including a top surface, the cross member frame element extending between the exterior frame element and intersecting the interior frame element, the top surfaces of the cross member frame element and the interior frame element substantially coplanar and elevated relative to a top surface of the exterior frame element, and at least one of the cross member frame element and the interior frame element including a recessed surface extending from the coplanar surface, the recessed surface including a flame clearance gap. Moreover, Karapetian does not describe or suggest a cross member frame

VIA FACSIMILE: 703-872-9302

PATENT
Atty. Dkt. No.: 9D-RG-19957

element extending between an exterior frame element and intersecting an interior frame element, whereby the top surfaces of the cross member frame element and the interior frame element are substantially coplanar and elevated relative to a top surface of the exterior frame element. Rather, Karapetian describes interior and exterior frame elements. For the reasons set forth above, Claim 11 is submitted to be patentable over Karapetian.

Claims 12 and 14-16 depend from independent Claim 11. When the recitations of Claims 12 and 14-16 are considered in combination with the recitations of Claim 11, Applicant submits that dependent Claims 12 and 14-16 are likewise patentable over Karapetian.

For the reasons set forth above, Applicant respectfully requests that the Section 102 rejection of Claims 1-12 and 14-16 be withdrawn.

The rejection of Claims 13 and 17-26 under 35 U.S.C. § 103 as being unpatentable over Karapetian is respectfully traversed.

Applicant respectfully submits that the Section 103 rejection of the presently pending claims is not a proper rejection. As is well established, the mere assertion that is within the preview of one of ordinary skill in the art to design at least one support finger extending from at least one of said exterior frame element and interior frame element does not support a prima facie obvious rejection. Rather, as is well established, each allegation of what would have been an obvious matter of design choice must always be supported by citation to some reference work recognized as standard in the pertinent art and the Applicant given the opportunity to challenge the correctness of the assertion or the notoriety or repute of the cited reference.

Applicant has not been provided with the citation to any reference supporting the combination made in the rejection. Moreover, Applicant is not aware of a support finger extending from at least one of an exterior frame element and an interior frame element in a known grate assembly for a gas cooktop. Rather, Karapetian describes interior and exterior frame elements. The rejection, therefore, fails to provide the Applicant with a fair opportunity to

VIA FACSIMILE: 703-872-9302

PATENT
Atty. Dkt. No.: 9D-RG-19957

respond to the rejection, and fails to provide the Applicant with the opportunity to challenge the correctness of the rejection.

Furthermore, Applicant respectfully submits that a prima facie case of obviousness has not been established. As explained by the Federal Circuit, "to establish obviousness based on a combination of the elements disclosed in the prior art, there must be some motivation, suggestion or teaching of the desirability of making the specific combination that was made by the applicant." In re Kotzab, 54 USPQ2d 1308, 1316 (Fed. Cir. 2000). MPEP 2143.01.

Moreover, the Federal Circuit has determined that:

[I]t is impermissible to use the claimed invention as an instruction manual or "template" to piece together the teachings of the prior art so that the claimed invention is rendered obvious. This court has previously stated that "[o]ne cannot use hindsight reconstruction to pick and choose among isolated disclosures in the prior art to deprecate the claimed invention."

In re Fitch, 23 USPQ2d 1780, 1784 (Fed. Cir. 1992). Further, under Section 103, "it is impermissible . . . to pick and choose from any one reference only so much of it as will support a given position, to the exclusion of other parts necessary to the full appreciation of what such reference fairly suggests to one of ordinary skill in the art." In re Wesslau, 147 USPQ 391, 393 (CCPA 1965). Rather, there must be some suggestion, outside of Applicant's disclosure, in the prior art to combine such inferences, and a reasonable expectation of success must be both found in the prior art, and not based on Applicant's disclosure. In re Vaack, 20 U.S.P.Q.2d 1436 (Fed. Cir. 1991).

In the present case, neither a suggestion nor motivation to modify the cited art, nor any reasonable expectation of success has been shown. Specifically, no teaching, or suggestion has been shown to modify Karapetian to include at least one support finger extending from at least one of said exterior frame element and interior frame element. Rather, the Section 103 rejection appears to be based on a hindsight reconstruction in which a disclosure and an isolated assertion

VIA FACSIMILE: 703-872-9302

PATENT
Atty. Dkt. No.: 9D-RG-19957

have been picked and chosen in an attempt to deprecate the present invention. Of course, such a combination is impermissible, and for this reason alone, Applicant respectfully requests that the Section 103 rejection of Claims 13 and 17-26 be withdrawn.

Furthermore, Applicant respectfully submits that no motivation nor teaching for the modifications can be found within Karapetian. Specifically, Karapetian describes a plurality of openings defined by a plurality of bar-like strips. Accordingly, the grill described by Karapetian does not include at least one support finger extending from either the exterior frame element or the interior frame element.

If art "teaches away" from a claimed invention, such a teaching supports the nonobviousness of the invention. U.S. v. Adams, 148 USPQ 479 (1966); Gillette Co. v. S.C. Johnson & Son, Inc., 16 USPQ2d 1923, 1927 (Fed. Cir. 1990). In light of this standard, it is respectfully submitted that the cited art, as a whole, is not suggestive of the presently claimed invention.

Further, and to the extent understood, Karapetian does not describe nor suggest the present invention. Claim 13 depends from Claim 11 which recites a grate assembly for a gas cooktop, the grate assembly includes at least one grate section including a substantially rectangular frame including "at least one exterior frame element comprising a top surface; at least one interior frame element comprising a top surface; and a cross member frame element comprising a top surface, said cross member frame element extending between said exterior frame element and intersecting said interior frame element, said top surfaces of said cross member frame element and said interior frame element substantially coplanar and elevated relative to a top surface of said exterior frame element; and at least one of said cross member frame element and said interior frame element comprising a recessed surface extending from said coplanar surface, said recessed surface comprising a flame clearance gap".

Karapetian neither describes nor suggests a grate assembly for a gas cooktop, the grate assembly includes at least one grate section including a substantially rectangular frame including

VIA FACSIMILE: 703-872-9302

PATENT
Atty. Dkt. No.: 9D-RG-19957

at least one exterior frame element including a top surface, at least one interior frame element including a top surface, and a cross member frame element including a top surface, the cross member frame element extending between the exterior frame element and intersecting the interior frame element, the top surfaces of the cross member frame element and the interior frame element substantially coplanar and elevated relative to a top surface of the exterior frame element, and at least one of the cross member frame element and the interior frame element including a recessed surface extending from the coplanar surface, the recessed surface including a flame clearance gap. Moreover, Karapetian does not describe or suggest a cross member frame element extending between an exterior frame element and intersecting an interior frame element, whereby the top surfaces of the cross member frame element and the interior frame element are substantially coplanar and elevated relative to a top surface of the exterior frame element. Rather, Karapetian describes interior and exterior frame elements. For the reasons set forth above, Claim 11 is submitted to be patentable over Karapetian.

Claim 13 depends from independent Claim 11. When the recitations of Claim 13 are considered in combination with the recitations of Claim 11, Applicant submits that dependent Claim 13 is likewise patentable over Karapetian.

Claim 17 recites a gas fired cooktop including "at least a first gas burner and a second gas burner; and a grate assembly surrounding said first gas burner and said second gas burner, said grate assembly comprising an interior frame element extending between said first gas burner and said second gas burner, said interior frame element comprising a cooking utensil surface and a flame clearance recessed portion extending from cooking utensil surface".

Karapetian neither describes nor suggests a gas fired cooktop including at least a first gas burner and a second gas burner, and a grate assembly surrounding the first gas burner and the second gas burner, the grate assembly including an interior frame element extending between the first gas burner and the second gas burner, the interior frame element including a cooking utensil surface and a flame clearance recessed portion extending from cooking utensil surface.

VIA FACSIMILE: 703-872-9302

PATENT
Atty. Dkt. No.: 9D-RG-19957

Moreover, Karapetian does not describe or suggest an interior frame element extending between the first gas burner and the second gas burner, the interior frame element including a cooking utensil surface and a flame clearance recessed portion extending from cooking utensil surface. Rather, Karapetian describes interior and exterior frame elements. For the reasons set forth above, Claim 17 is submitted to be patentable over Karapetian.

Claims 18-21 depend from independent Claim 17. When the recitations of Claims 18-21 are considered in combination with the recitations of Claim 17, Applicant submits that dependent Claims 18-21 likewise are patentable over Karapetian.

Claim 22 recites a gas fired cooktop including "a first gas burner and an adjacent second gas burner; a first grate section surrounding said first and second gas burners; a third gas burner and an adjacent fourth gas burner, said third and fourth gas burners adjacent said first and second gas burners; a second grate section surrounding said third and fourth gas burners; a bridge spacer grate section extending between said first grate section and said second grate section; a top surface of each of said first grate section, second grate section, and bridge spacer section comprising a substantially coplanar utensil supporting surface; and a recessed surface portion extending from said utensil supporting surface between each adjacent gas burner".

Karapetian neither describes nor suggests a gas fired cooktop including a first gas burner and an adjacent second gas burner, a first grate section surrounding the first and second gas burners, a third gas burner and an adjacent fourth gas burner, the third and fourth gas burners adjacent the first and second gas burners, a second grate section surrounding the third and fourth gas burners, a bridge spacer grate section extending between the first grate section and the second grate section, a top surface of each of the first grate section, second grate section, and bridge spacer section including a substantially coplanar utensil supporting surface, and a recessed surface portion extending from the utensil supporting surface between each adjacent gas burner. Moreover, Karapetian does not describe or suggest bridge spacer section including a substantially coplanar utensil supporting surface, and a recessed surface portion extending from

VIA FACSIMILE: 703-872-9302

PATENT
Atty. Dkt. No.: 9D-RG-19957

the utensil supporting surface between each adjacent gas burner. Rather, Karapetian describes interior and exterior frame elements. For the reasons set forth above, Claim 22 is submitted to be patentable over Karapetian.

Claims 23-26 depend from independent Claim 22. When the recitations of Claims 23-26 are considered in combination with the recitations of Claim 22, Applicant submits that dependent Claims 23-26 likewise are patentable over Karapetian.

For the reasons set forth above, Applicant respectfully requests that the Section 103 rejection of Claims 13 and 17-26 be withdrawn.

The rejection of Claims 1-26 under 35 U.S.C. § 103 as being unpatentable over Sparks in Des. 378,885 (hereinafter referred to as "Sparks") in view of Williams et al., U.S. Patent No. 925,255 (hereinafter referred to as "Williams") is respectfully traversed.

Sparks shows an ornamental design for a gas cooktop grate.

Williams describes a lamp attachment with two supports (1) and (1^a) which are formed at their upper ends with oppositely disposed wings (2). Supports are formed within their margins with longitudinal openings (3) that are laterally enlarged at their upper ends so as to extend into wings. Each of these frame-like supports embodies an upper cross bar (4) which defines the upper wall of opening, and a lower cross bar (5) which defines the lower wall thereof. The lower cross bar being preferably widened and the upper cross bar being widened at its middle point and in alignment with the lower cross bar (6). The lower cross bars and the widened portions of the upper cross bars are formed with longitudinally disposed slits (7) leading from one edge thereof and extending almost to, but terminating short of the opposite edge, the slits of the cross bars of one support (1^a) leading from the opening, and the slits of the other support (1) leading from the outer edges of the respective cross bars as shown. The slitted portions of the cross bars are arranged for an interlocking engagement, so as to detachably secure together the supports, and hold the latter in perpendicular relation to each other.

VIA FACSIMILE: 703-872-9302**PATENT**
Atty. Dkt. No.: 9D-RG-19957

Applicant respectfully submits that the Section 103 rejection of the presently pending claims is not a proper rejection. As is well established, obviousness cannot be established by combining the teachings of the cited art to produce the claimed invention, absent some teaching, suggestion, or incentive supporting the combination. Neither Sparks nor Williams, considered alone or in combination, describe or suggest the claimed combination. Furthermore, in contrast to the assertion within the Office Action, Applicant respectfully submits that it would not be obvious to one skilled in the art to combine Sparks with Williams, because there is no motivation to combine the references suggested in the art. Additionally, the Examiner has not pointed to any prior art that teaches or suggests to combine the disclosures, other than Applicant's own teaching. Rather, only the conclusory statement that "[w]ould be obvious to one with ordinary skill in the art to provide the system of Sparks with recesses as taught by Williams et al. for the purposes of even distribution of heated air and clearance passages for burner flames" suggests combining the disclosures.

As the Federal Circuit has recognized, obviousness is not established merely by combining references having different individual elements of pending claims. Ex parte Levengood, 28 U.S.P.Q.2d 1300 (Bd. Pat. App. & Inter. 1993). MPEP 2143.01. Rather, there must be some suggestion, outside of Applicant's disclosure, in the prior art to combine such references, and a reasonable expectation of success must be both found in the prior art, and not based on Applicant's disclosure. In re Vaack, 20 U.S.P.Q.2d 1436 (Fed. Cir. 1991). In the present case, neither a suggestion or motivation to combine the prior art disclosures, nor any reasonable expectation of success has been shown.

Furthermore, it is impermissible to use the claimed invention as an instruction manual or "template" to piece together the teachings of the cited art so that the claimed invention is rendered obvious. Specifically, one cannot use hindsight reconstruction to pick and choose among isolated disclosures in the art to deprecate the claimed invention. Further, it is impermissible to pick and choose from any one reference only so much of it as will support a given position, to the exclusion of other parts necessary to the full appreciation of what such

VIA FACSIMILE: 703-872-9302**PATENT**
Atty. Dkt. No.: 9D-RG-19957

reference fairly suggests to one of ordinary skill in the art. The present Section 103 rejection appears to be based on a combination of teachings selected from multiple patents in an attempt to arrive at the claimed invention. Specifically, Sparks is cited for an ornamental design for a gas cooktop grate, and Williams is cited for a lamp attachment with a recessed surface. Since there is no teaching nor suggestion in the cited art for the claimed combination, the Section 103 rejection appears to be based on a hindsight reconstruction in which isolated disclosures have been picked and chosen in an attempt to deprecate the present invention. Of course, such a combination is impermissible, and for this reason alone, Applicant respectfully requests that the Section 103 rejection be withdrawn.

Applicant respectfully submits however, that the prior art teaches away from the present invention. More specifically, Sparks shows an ornamental design for a gas cooktop grate and Williams describes a lamp attachment. Williams describes even distribution of heated air at the surface of the vessel with recesses permitting cross currents of heat. Applicant respectfully submits that cross currents of heated air have different physical and chemical characteristics than an open gas burner flame. Because Williams teaches recesses to permit cross currents of heat from the surface of the vessel and does not describe nor suggest the passage of a flame through a cooktop grate, it is respectfully submitted that Williams teaches away from methods and apparatuses for the passage of a burner flame through a cooktop grate.

If art "teaches away" from a claimed invention, such a teaching supports the nonobviousness of the invention. U.S. v. Adams, 148 USPQ 479 (1966); Gillette Co. v. S.C. Johnson & Son, Inc., 16 USPQ2d 1923, 1927 (Fed. Cir. 1990). In light of this standard, it is respectfully submitted that the cited art, as a whole, is not suggestive of the presently claimed invention.

Further, and to the extent understood, neither Sparks nor Williams, alone or in combination, fairly describe or suggest the claimed combination, and as such, the presently pending claims are patentably distinguishable from the cited combination. Specifically, Claim 1

VIA FACSIMILE: 703-872-9302

PATENT
Atty. Dkt. No.: 9D-RG-19957

recites a cooking grate including "a frame comprising an exterior frame element; at least one interior frame element comprising a cooking utensil supporting surface, said cooking utensil supporting surface elevated from said exterior frame element; at least one recessed surface extending from said cooking utensil supporting surface, a top of said recessed surface separated from a top of said cooking utensil supporting surface, thereby providing a gap for passage of a burner flame; and at least one support finger extending from at least one of said exterior frame element and interior frame element".

Neither Sparks nor Williams, alone or in combination, fairly describe or suggest a cooking grate including a frame including an exterior frame element, at least one interior frame element including a cooking utensil supporting surface, the cooking utensil supporting surface elevated from the exterior frame element, at least one recessed surface extending from the cooking utensil supporting surface, a top of the recessed surface separated from a top of the cooking utensil supporting surface, thereby providing a gap for passage of a burner flame, and at least one support finger extending from at least one of the exterior frame element and interior frame element. Rather, Sparks shows an ornamental design for a gas cooktop grate, and Williams describes a lamp attachment. For the reasons set forth above, Claim 1 is submitted to be patentable over Sparks in view of Williams.

Claims 2-5 depend from independent Claim 1. When the recitations of Claims 2-5 are considered in combination with the recitations of Claim 1, Applicant submits that dependent Claims 2-5 likewise are patentable over Sparks in view of Williams.

Claim 6 recites a grate assembly for a gas cooking appliance, the grate assembly including "at least one exterior frame element; at least one support finger extending from said exterior frame, said support finger comprising a top surface extending above said at least one exterior frame element; at least one interior frame element comprising a top surface extending above said at least one exterior frame element, said top surface of said interior frame element substantially coplanar with said top surface of said support finger; and at least one recessed

VIA FACSIMILE: 703-872-9302**PATENT**
Atty. Dkt. No.: 9D-RG-19957

surface extending from said top surface of said interior frame element, said recessed surface defining a clearance for passage of a burner flame”.

Neither Sparks nor Williams, alone or in combination, fairly describe or suggest a grate assembly for a gas cooking appliance, the grate assembly including at least one exterior frame element, at least one support finger extending from the exterior frame, the support finger including a top surface extending above the at least one exterior frame element, at least one interior frame element including a top surface extending above the at least one exterior frame element, the top surface of the interior frame element substantially coplanar with the top surface of the support finger, and at least one recessed surface extending from the top surface of the interior frame element, the recessed surface defining a clearance for passage of a burner flame. Rather, Sparks shows an ornamental design for a gas cooktop grate, and Williams describes a lamp attachment. For the reasons set forth above, Claim 1 is submitted to be patentable over Sparks in view of Williams.

Claims 7-10 depend from independent Claim 6. When the recitations of Claims 7-10 are considered in combination with the recitations of Claim 6, Applicant submits that dependent Claims 7-10 likewise are patentable over Sparks in view of Williams.

Claim 11 recites a grate assembly for a gas cooktop, the grate assembly includes at least one grate section including a substantially rectangular frame including “at least one exterior frame element comprising a top surface; at least one interior frame element comprising a top surface; and a cross member frame element comprising a top surface, said cross member frame element extending between said exterior frame element and intersecting said interior frame element, said top surfaces of said cross member frame element and said interior frame element substantially coplanar and elevated relative to a top surface of said exterior frame element; and at least one of said cross member frame element and said interior frame element comprising a recessed surface extending from said coplanar surface, said recessed surface comprising a flame clearance gap”.

VIA FACSIMILE: 703-872-9302**PATENT**
Atty. Dkt. No.: 9D-RG-19957

Neither Sparks nor Williams, alone or in combination, fairly describe or suggest a grate assembly for a gas cooktop, the grate assembly includes at least one grate section including a substantially rectangular frame including at least one exterior frame element including a top surface, at least one interior frame element including a top surface, and a cross member frame element including a top surface, the cross member frame element extending between the exterior frame element and intersecting the interior frame element, the top surfaces of the cross member frame element and the interior frame element substantially coplanar and elevated relative to a top surface of the exterior frame element, and at least one of the cross member frame element and the interior frame element including a recessed surface extending from the coplanar surface, the recessed surface including a flame clearance gap. Rather, Sparks shows an ornamental design for a gas cooktop grate, and Williams describes a lamp attachment. For the reasons set forth above, Claim 11 is submitted to be patentable over Sparks in view of Williams.

Claims 12-16 depend from independent Claim 11. When the recitations of Claims 12-16 are considered in combination with the recitations of Claim 11, Applicant submits that dependent Claims 12-16 likewise are patentable over Sparks in view of Williams.

Claim 17 recites a gas fired cooktop including "at least a first gas burner and a second gas burner; and a grate assembly surrounding said first gas burner and said second gas burner, said grate assembly comprising an interior frame element extending between said first gas burner and said second gas burner, said interior frame element comprising a cooking utensil surface and a flame clearance recessed portion extending from cooking utensil surface".

Neither Sparks nor Williams, alone or in combination, fairly describe or suggest a gas fired cooktop including at least a first gas burner and a second gas burner, and a grate assembly surrounding the first gas burner and the second gas burner, the grate assembly including an interior frame element extending between the first gas burner and the second gas burner, the interior frame element including a cooking utensil surface and a flame clearance recessed portion extending from cooking utensil surface. Rather, Sparks shows an ornamental design for a gas

VIA FACSIMILE: 703-872-9302

PATENT
Atty. Dkt. No.: 9D-RG-19957

cooktop grate, and Williams describes a lamp attachment. For the reasons set forth above, Claim 17 is submitted to be patentable over Sparks in view of Williams.

Claims 18-21 depend from independent Claim 17. When the recitations of Claims 18-21 are considered in combination with the recitations of Claim 17, Applicant submits that dependent Claims 18-21 likewise are patentable over Sparks in view of Williams.

Claim 22 recites a gas fired cooktop including "a first gas burner and an adjacent second gas burner; a first grate section surrounding said first and second gas burners; a third gas burner and an adjacent fourth gas burner, said third and fourth gas burners adjacent said first and second gas burners; a second grate section surrounding said third and fourth gas burners; a bridge spacer grate section extending between said first grate section and said second grate section; a top surface of each of said first grate section, second grate section, and bridge spacer section comprising a substantially coplanar utensil supporting surface; and a recessed surface portion extending from said utensil supporting surface between each adjacent gas burner".

Neither Sparks nor Williams, alone or in combination, fairly describe or suggest a gas fired cooktop including a first gas burner and an adjacent second gas burner, a first grate section surrounding the first and second gas burners, a third gas burner and an adjacent fourth gas burner, the third and fourth gas burners adjacent the first and second gas burners, a second grate section surrounding the third and fourth gas burners, a bridge spacer grate section extending between the first grate section and the second grate section, a top surface of each of the first grate section, second grate section, and bridge spacer section including a substantially coplanar utensil supporting surface, and a recessed surface portion extending from the utensil supporting surface between each adjacent gas burner. Rather, Sparks shows an ornamental design for a gas cooktop grate, and Williams describes a lamp attachment. For the reasons set forth above, Claim 22 is submitted to be patentable over Sparks in view of Williams.

VIA FACSIMILE: 703-872-9302

PATENT
Atty. Dkt. No.: 9D-RG-19957

Claims 23-26 depend from independent Claim 22. When the recitations of Claims 23-26 are considered in combination with the recitations of Claim 22, Applicant submits that dependent Claims 23-26 likewise are patentable over Sparks in view of Williams.

For the reasons set forth above, Applicant respectfully requests that the Section 103 rejection of Claims 1-26 be withdrawn.

In view of the foregoing amendments and remarks, all the claims now active in this application are believed to be in condition for allowance. Reconsideration and favorable action is respectfully solicited.

Respectfully Submitted,



Thomas M. Fisher
Registration No. 47,564
ARMSTRONG TEASDALE LLP
One Metropolitan Square, Suite 2600
St. Louis, Missouri 63102-2740
(314) 621-5070